LEVINE, BLASZAK, BLOCK & BOOTHBY, LLP
2001 L STREET, NW.
SUITE 900
WASHINGTON, D.C. 20036
(202) 857-2550
FAX (202) 223-0833

June 14, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *Ex Parte* Presentation – re: Public Meeting on Proposals to Reform the Commission's Universal Service Contribution Methodology, CC Dkt Nos. 96-45, 98-171, 90-571, 92-237, NSD File No. L-00-72; and CC Docket Nos. 99-200, 95-116, 98-170.

Dear Ms. Dortch,

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") herein submits a summary of the positions that Ad Hoc will take in Panel Number Two of the Universal Service Public Meeting, scheduled to be held on June 21, 2002.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. §1.1206(b)(1), an original and one copy of this letter and attachment are being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

James S. Blaszak
Counsel, Ad Hoc Telecommunications
Users Committee

The Ad Hoc Telecommunications Users Committee

CC Docket Nos. 96-45, 98-171, 90-571, 92-237, NSD File No. L-00-72, CC Docket Nos. 99-200, 95-116, 98-170

Carriers Should Not Be Permitted To Mark-Up The FCC Prescribed Universal Service Contribution Factor; Nor Should They Be Permitted To Imply That The Marked-Up Factor Is Entirely Attributable To Government Requirements.

- While the Ad Hoc Telecommunications Users Committee (Ad Hoc) supports the proposal of the Coalition for Sustainable Universal Service (Coalition) for a per connection universal service assessment methodology as the best way to ensure the equity and long term sufficiency of the federal universal service fund, it vigorously opposes carriers' mark-ups to the FCC prescribed universal service contribution factor.

- Carriers should not be permitted to turn a program that was designed to assist customers in high-cost areas, the nation's secondary schools, and rural medical providers into profit centers.

- Currently, carriers are marking up the Commission prescribed contribution factor by almost 50 percent. For example, AT&T is charging its business customers a universal service fee (denominated as a "Universal Connectivity Charge") of 10.6 percent while the FCC's contribution factor is 7.2 percent.

- Carriers justify these mark-ups by claiming that they are necessary to adequately compensate them for: (1) their administrative costs of collecting and remitting universal service contributions; (2) their inability to collect funds from customers who do not pay their phone bills; and (3) the fact that while interstate revenues are declining, carriers must contribute to the fund based on their revenues as of six months prior to the date of contribution.

- The carriers have not produced any public evidence of their bad debt rates, or the costs they incur, either directly or indirectly, in administering their universal service collection and remittance efforts.

- Moreover, the manner in which carrier's can collect universal service contributions from their customers is governed by the "just and reasonable" requirements of Section 201(b) of the Communications Act, and the Commission's Truth-in-Billing rules and Universal Service orders.

    - The Truth-in-Billing rules state that "Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered."[1]

[1] 47 C.F.R. § 64.2401(b).

- In the *Universal Service Order*, the Commission stated that, "[i]f contributors [to universal service] choose to pass through part of their contributions and to specify that fact on customer's bills, contributors must be careful to convey information … that accurately describes the nature of the charge."[2]

- Consistent with these principles, neither uncollectibles nor administrative costs can, in an accurate and non-misleading fashion, be labeled "universal service fees."

    - Because they represent no more than general "costs of doing business," administrative costs and uncollectibles are not sufficiently related to a carrier's universal service obligations to be labeled as such.

    - Allowing carriers to denominate costs associated with bad debt and the administration of their universal service collection efforts as "universal service costs," removes any meaningful limitation on a carrier's ability to mark-up the FCC-mandated contribution factor, and opens the door to carriers increasing this end-user charge to unreasonable and misleading levels.

    - If the Coalition's per connection collect and remit approach is implemented, there is no justification for any universal service mark-ups based on bad debt.

    - Similarly, a per connection contribution methodology should reduce the administrative costs associated with collecting a carrier's universal service contributions, thereby decreasing, if not eliminating entirely, whatever portion of a carrier's administrative costs can truthfully be said to be related to collecting universal service contributions.

        - ILECs already assess SLCs on a per connection basis and most wireless carriers assess E911 fees and other state and local surcharges on a per connection basis. Given that these entities know their line counts and currently assess end-user fees based on these counts, it is reasonable to conclude that it would require minimal additional resources for these carriers to collect universal service fees on a per connection basis.

- Declining long distance revenues are a legitimate problem.

    - The solution, however, is not to allow carriers to mark-up the Commission prescribed contribution factor, but to institute a per connection assessment methodology, as proposed by the Coalition.

---

2 12 FCC Rcd 8776, ¶ 855 (1997).